



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0164; FRL-9997-33-Region 9]

Revisions to the California State Implementation Plan, Feather River Air Quality

Management District; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correcting amendment.

SUMMARY: The Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** on July 8, 2015, that approved revisions to the Feather River Air Quality Management District portion of the California State Implementation Plan (SIP) but did not include all the necessary amendatory language to list all the SIP revisions that were being approved. This document corrects this error.

DATES: This final rule is effective on **[Insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 972-3073, gong.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: On July 8, 2015 (80 FR 38959), the EPA took direct final action to approve revisions to the Feather River Air Quality Management District (AQMD) portion of the California SIP.¹ The approval covered one Feather River AQMD rule (Rule 3.8 (“Gasoline Dispensing Facilities”)) and three Reasonably Available Control Technology (RACT) SIP demonstrations from Feather River AQMD: one from 2006 (“2006 RACT SIP”),

¹ The Feather River AQMD administers air quality management programs in Yuba and Sutter Counties in California.

one from 2009 (“2009 RACT SIP”) and one from 2014 (“2014 RACT SIP”). In our direct final action, we mistakenly codified our approval of Rule 3.8 twice and failed to codify our approval of the 2009 RACT SIP.

On September 8, 2015 (80 FR 53739), we corrected our July 8, 2015 direct final action by replacing one of the listings for our approval of Rule 3.8 with our approval of the 2014 RACT SIP. In our September 8, 2015 action, we also intended to replace the July 8, 2015 listing of the 2014 RACT SIP with the missing approval of the 2009 RACT SIP, but inadvertently failed to do so with the result that our approval of the 2014 RACT SIP is now codified at both 40 CFR 52.220(c)(459) and 40 CFR 52.220(c)(460) and the approval of the 2009 RACT SIP is still missing. In this action, we are revising paragraph (c)(459) to list our approval of the 2009 RACT SIP.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period. Further, this action is consistent with the purpose and rationale of the final rule for which amendatory instructions are being corrected herein. Because this action does not change the EPA’s analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for this

correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects incomplete amendatory instructions in a previous rulemaking. For these reasons, the EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with state officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller

General of the General Accounting Office prior to publication of this rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 16, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by revising paragraphs (c)(459) introductory text and (c)(459)(ii)(A)(I) to read as follows:

§ 52.220 Identification of plan - in part.

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(c) * * *

(459) The following plan revision was submitted on October 27, 2009, by the Governor's designee.

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(ii) * * *

(A) * * *

(I) Reasonably Available Control Technology State Implementation Plan Revision, Negative Declaration for Control Techniques Guidelines Issued 2006-2008 (“2009 RACT SIP”), as adopted on June 1, 2009.

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[FR Doc. 2019-16050 Filed: 7/30/2019 8:45 am; Publication Date: 7/31/2019]